

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN.(CONTEMPT PETITION) No 389 of 1986

AND

MISC. CIVIL APPLN.(CONTEMPT PETITION No.748 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI

and

MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MCA(CP) No.389/86

SHAIKH SABIR HUSEN & 820 OTHER

Versus

INDEQUIP ENGINEERING LTD.

MCA(CP) No.748/90

CHIMANBHAI BHAILALBHAI PATEL AND ANR.

VS.

SHRI PRAVIONBHAI YAGNIK AND ORS.

Appearance in MCA(C)No.389/86

PARTY-IN-PERSON for Petitioner

MR SB VAKIL for Respondent No. 1

Appearnace in MCA(CP) No.748/90

MR.MILAN JOSHI for the petitioner.
MR.D.J.BHATT for respondent no.1.
Mr.ROSHAN DESAI for respondents nos.2 and 3.

CORAM : S.M.Soni and R.R.Jain,JJ.
Date of decision:08/08/1996

ORAL JUDGEMENT

As common questions of law and facts are involved in these two petitions, they are being disposed of by this common judgment. For the purposes of appreciation, the facts referred to in this judgment are that of Misc.Civil Application(Contempt Petition) No.389/86.

The record shows that applicants are represented by one Mr. P.Chidambaram as party in person. He is not present before the Court despite message being sent. For respondents also no one is present.

Applicants have filed this application for taking action against the respondents under the Contempt of Courts Act for non compliance of the order passed by the authority under the Payment of Wages Act,1936('PW Act' for short) in Payment of Wages Application no.163 of 1985 dated 5th December,1985. By the order of the authority the respondents are directed to make payment to the workers of the Company which has been calculated at Rs.6,50,000/- towards dues for the month of July,1985. There is a further direction to the Company to pay Court Fees of Rs.8,500/- to the Government under Section 15A(2) of the PW Act. It is also further directed to pay Rs.20/as compensation to each and every applicant for this application. The Company is also directed to pay Rs.250/as cost of this application. Order was to become effective within a period of one month from the date of receipt of this order by the opponent. Petitioners , then, by notice of 21st March,1986 communicated the said order to the respondents. Despite the knowledge of the order and requisition by the applicants to comply with the same within seven days, the present application came to be filed for non compliance thereof.

In substance, this application for taking action under Contempt of Courts Act is on the premises that the order to make payment of wages by the authority under PW Act has not been complied with. If any amount is ordered to be paid under PW Act, the same can be recovered under sub section (5) of Section 15 of the Act. Sub section (5)

of Section 15 of the Act reads as under:

"(5). Any amount directed to be paid under this section may be recovered by the authority as an arrear of land revenue and the authority shall for that purpose be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890."

Section 20 of the PW Act provides for a penal action under sub section (6) of that Act for failure or wilful neglect to pay the wages of an employee by the date fixed by the authority. Thus, the Act specifically provides for the execution of the order for payment of wages.

In the case of (THE) ALAHAR CO-OPERATIVE CREDIT SERVICE SOCIETY VS. SHAM LAL, 1995(2) G.L.H. 550, it has been specifically held that contempt proceedings are again not intended to be a substitute of the execution process. The order to make payment by the authority can be executed under sub-section (5) of Section 15 of the Act. In view of this fact, we are of the opinion that these applications are not maintainable and are liable to be dismissed. Hence, they are hereby dismissed. Rule is discharged in both these applications. However, there should be no order as to costs.

sf-sms